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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 DANIEL E. ELWELL,

10 Petitioner,

11 v.

12 SCOTT FRAKES,

13 Respondent.

NO. C08-1084RSL

ORDER DISMISSING § 2254
PETITION

14 The Court, having reviewed petitioner's petition for writ of habeas corpus, respondent's
15 answer to the petition, the Report and Recommendation of the Honorable Mary Alice Theiler,
16 United States Magistrate Judge, and the balance of the record, does hereby find and Order:

- 17 (1) The Court adopts the Report and Recommendation;
18 (2) Petitioner's federal habeas petition (Dkt. No. 6) is DISMISSED, with prejudice,
19 under 28 U.S.C. § 2244(d); and
20 (3) The Clerk is directed to send copies of this Order to petitioner, to counsel for
21 respondent, and to Judge Theiler.
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2 DATED this 5th day of January, 2009.
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6 ROBERT S. LASNIK

7 Chief United States District Judge
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